



United States Conference of Catholic Bishops Government Relations

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Weekly Update on Immigration and Refugee Legislative Matters 111th Congress, First Session

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Congress Faces Unusually Heavy Immigration Agenda This Week as it Prepares to Leave Washington at Week's End to Commence a Two Week-Long Recess at Week's End

This Week's Hearings

At the time of this writing, six Congressional panels have hearings this week at which significant immigration- or refugee-related matters are expected to be discussed:

- State and Local Enforcement of Immigration Law. Two House Judiciary Committee Panels have scheduled a joint hearing on state and local enforcement of immigration law;
- Nomination of Kathleen Sebelius to be Secretary of Health and Human Services. Two Senate committees have scheduled hearings for this week on the nomination of Kathleen Sebelius to be Secretary of Health and Human Services—
 1. The Senate Committee on Health, Education, Labor, and Pensions has scheduled a hearing for this week on the nomination.
 2. The Senate Committee on Finance has scheduled a hearing for this week on the nomination; and

- Immigration and Citizenship. The House Appropriations Subcommittee on Homeland Security has scheduled a hearing on immigration enforcement and citizenship verification; and

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This Week's Hearings (continued)

- U.S.-Mexico Border Violence. Two panels are holding hearing on U.S.-Mexico border violence—
 1. The Senate Committee on Foreign Relations has scheduled a field hearing for this week on violence along the U.S.-Mexico border; and
 2. The House Homeland Security Subcommittee on Emergency Communications, Preparedness, and Response has scheduled a hearing on violence along the U.S.-Mexico border.

House

House Judiciary Committee Panels to Hold Joint Hearing on State and Local Enforcement of Immigration Law: Two subcommittees of the House Committee on the Judiciary are having a joint hearing for this week examining state and local law enforcement of federal immigration laws. This week's hearing will be held by the House Judiciary Committee's Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law and its Subcommittee on Constitution, Civil Rights, and Civil Liberties. The hearing, which is titled, "'Public Safety and Civil Rights Implications of State and Local Enforcement of Federal Immigration Laws", is scheduled for 10:00 am on Thursday, April 2, 2009, in Room 2141 of the Rayburn House Office Building.

Anticipated Witnesses. At the time of this writing, the witness list for this week's hearing had not yet been made public. ☼

House Panel to Hold Hearing on U.S.-Mexico Border Violence: The House Homeland Security Subcommittee on Emergency Communications, Preparedness, and Response has scheduled a hearing for this week on violence along the U.S. border with Mexico. This week's hearing, which is titled, "Examining Preparedness and Coordination Efforts of First Responders Along the Southwest Border", is scheduled for 10:00 am on Tuesday, March 31, 2009, in Room 311 of the Cannon House Office Building.

Anticipated Witnesses. At the time of this writing, the witnesses at this week's hearing included:

- Richard C. Barth, Acting Assistant Secretary of Homeland Security, Office of Policy;
- Janice Ayala, Deputy Assistant Director, Office of Investigations, Immigration and Customs Enforcement, Department of Homeland Security;
- Maj. Gen. Peter Aylward, Director, Joint Staff, National Guard Bureau;

- Larry A. Dever, Sheriff, Cochise County, Arizona; and
- Sigifredo Gonzalez Jr., Sheriff, Zapata County, Texas. ☼

House Appropriations Panel to Hold Hearing on Immigration Enforcement and Citizenship Verification: The House Appropriations Subcommittee on Homeland Security has scheduled a hearing for this week on immigration enforcement and citizenship verification. This week's hearing is scheduled for 10:00 am on Thursday, April 2, 2009, in Room 2359 of the Rayburn House Office Building.

Anticipated Witnesses. At the time of this writing, the witnesses at this week's hearing included:

- Michael Aytes, Acting Deputy Director, Citizenship and Immigration Services, Department of Homeland Security (DHS);
- David Venturella, Executive Director, Secure Communities, Immigration and Customs Enforcement, DHS; and
- Marcy Forman, Director, Office of Investigations, Immigration and Customs Enforcement, DHS. ☼

Senate

Senate Foreign Relations Committee to Hold Field Hearing on U.S.-Mexico Border Violence: The Senate Committee on Foreign Relations has scheduled a field hearing for this week, at which it will examine U.S.-Mexico border violence. This week's hearing is scheduled for 8:00 am on Monday, March 30, 2009, in the Tomas Rivera Conference Center in the Union Building East, 500 W. University Avenue, University of Texas at El Paso in El Paso, Texas.

Anticipated Witnesses. At the time of this writing, the witness list for this week's hearing had not yet been made public. ☼

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This Week's Hearing (continued)

Senate HELP Committee to Hold Hearing on Nomination of Kathleen Sebelius to be Secretary of Health and Human Services: The Senate Committee on Health, Education, Labor, and Pensions has scheduled a hearing for this week on the nomination of Governor Kathleen Sebelius (D-KS) to be Secretary of Health and Human Services. This week's hearing is scheduled for 10:00 am on Tuesday, March 31, 2009, in Room SD-430 of the Dirksen Senate Office Building.

Anticipated Witnesses. At the time of this writing, the witness list for this week's hearing had not yet been made public. At a minimum, it will include Governor Sebelius. ☼

Senate Finance Committee to Hold Hearing on Nomination of Kathleen Sebelius to be Secretary of Health and Human Services: The Senate Committee on Finance has scheduled a hearing for this week on the nomination of Governor Kathleen Sebelius (D-KS) to be Secretary of Health and Human Services. This week's hearing is scheduled for 10:00 am on Thursday, April 2, 2009, in Room SD-215 of the Dirksen Senate Office Building. ☼

Anticipated Witnesses. At the time of this writing, the witness list for this week's hearing had not yet been made public. At a minimum, it will include Governor Sebelius. ☼

This Week's Markups

At the time of this writing, only one Congressional committee was contemplating actions this week on measures that either contain significant immigration- or refugee-related provisions, that are likely to become the vehicle for significant immigration- or refugee-related amendments, or that otherwise could have a significant impact on immigration- or refugee matters:

- Vote on Nomination of Secretary of Health and Human Services. The Senate Committee on Health, Education, Labor, and Pensions has scheduled a vote for this week on the nomination of Governor Kathleen Sebelius to be Secretary of Health and Human Services.

House

At the time of this writing, no House committees were contemplating actions this week on measures that either contain significant immigration- or refugee-related provisions or are likely to become the vehicle for significant immigration- or refugee-related amendments.

Senate

The First of Two Senate Committees to Vote This Week on the Sebelius HHS Nomination: The Senate Committee on Health, Education, Labor, and Pensions has scheduled a markup for this week at which it anticipates voting on the nomination of Governor Kathleen Sebelius (D-KS) to be Secretary of Health and Human Services. This week's markup is scheduled for 10:00 am on Wednesday, April 1, 2009, in Room SD-430 of the Dirksen Senate Office Building. It is occurring just one day after a scheduled hearing in the Committee on Governor Sebelius' nomination.

President Barack Obama announced Governor Sebelius' nomination to be Secretary of Health and Human Services on Monday, March 2, 2009. Hers was the last of the four cabinet departments with significant jurisdiction over immigration- or refugee-related functions and programs to have their cabinet secretaries confirmed. The three departments that have heads in place are the Department of Homeland Security, department of State, and Department of Justice.



Governor Sebelius was President Obama's second choice to head the Department of Health and Human Services. His first choice, former Senate Majority Leader Tom Daschle (D-SD), withdrew his nomination for the position in early February following revelations that he had not paid income taxes on all of his income over the last several years.

Governor Sebelius has twice been elected governor of Kansas, having first been elected in 2002. Prior to being elected governor, she served for eight years as Kansas Insurance Commissioner, beginning in 1995. From 1987 to 1995 she served in the Kansas State House of Representatives. She has no experience in Washington.

HHS Jurisdiction over Refugees and Immigration. While the Department of Health and Human Services has broad jurisdiction over many programs and activities of government, it operates several specific programs that assist refugees and other vulnerable populations of noncitizens:

- Resettlement Services to Refugees, Asylees, Special Immigrant Iraqis, and Certain Amerasians. These programs provide resettlement services to refugees who have been admitted to the United States and aliens, individuals who have been granted asylum in the United States, individuals from Vietnam who are admitted to the U.S. as immigrants pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988.
- Trafficking Victims. These programs assist aliens found in the United States who are the victims of trafficking;

- Torture Victims. These programs assist alien torture victims who are found in the United States; and
- Unaccompanied Alien Children. These programs provide care and custody for unaccompanied aliens in federal custody while their immigration status is being resolved.

The Department operates these programs through its [Office of Refugee Resettlement](#) (ORR), which is an office within the Department's [Administration for Children and Families](#) (ACF).

Two other Federal departments also play a major role in refugee protection. The Department of State, through its Bureau of Population, Refugees, and Migration (PRM) operates programs to assist in the admission of refugees to the United States and provide overseas refugee assistance to refugees in camps of first asylum. And the Department of Homeland Security, through its U.S. Citizenship and Immigration Services Bureau (USCIS), interviews and adjudicates refugee applicants once they have been identified.

Governor Sebelius' Positions on Immigration- and Refugee-Related Matters. Governor Sebelius has had a significant amount of exposure to immigration and refugee matters while governor of Kansas. The state of Kansas has a growing foreign-born population and hosts a disproportionately large number of refugees, many from Africa. Indeed, there are about 5,000 Somalis in the Kansas City area, making them one of the largest refugee populations in the metropolitan area. Other nationalities of refugees who reside in Kansas City include Sudanese, Ethiopians, Burmese and Vietnamese.

The growing number of refugees in Kansas from Africa, and elsewhere, and the number of Central American and Mexican immigrants who work in meat processing plants has stirred up some resentment and anti-immigrant activism in the state. Governor Sebelius has had to deal with that resentment, both in legislation that has been sent to her and during her most recent campaign for reelection. Indeed, in her 2006 reelection campaign, Governor Sebelius was challenged by Jim Barnett, a Republican candidate who tried to use immigration against her. Some say that she tacked a bit to the right on immigration during that reelection campaign, which she won with 58 percent of the vote.

Governor Sebelius has generally been pro-immigrant while Governor. Over the years, she has supported in-state tuition for undocumented aliens and the provision of driver's licenses for undocumented aliens. But she also has signed legislation and taken positions at times that were opposed by the pro-immigrant or pro-refugee advocacy communities.

In 2004, Governor Sebelius signed a measure granting in-state tuition to qualifying students who are illegal immigrants. Under the 2004 law, children of illegal

immigrants are eligible to pay in-state tuition if they have lived in Kansas for at least three years, graduated from a Kansas high school and are on the path toward citizenship. Upon passage of the legislation, Governor Sebelius issued a statement declaring that she was "delighted that the immigrant tuition bill was finally approved by the Legislature after two years of efforts by supporters, students and citizens who came from across Kansas to lobby for this measure." She went on to assert that the bill "will remove financial barriers and open the doors of our colleges and universities to all Kansas high school graduates." She continued, saying that "[w]e know that 21st Century workers need post-secondary training, but too many talented Kansas students found higher education too expensive to pursue. In the long-run, we will be a stronger state with a better-educated workforce because of this measure."³¹⁹

In July of 2006, Governor Sebelius sent about 50 airmen from the 184th Civil Engineering Squadron, based at McConnell Air Force Base in Wichita, to the border.

During her 2006 reelection campaign, Governor Sebelius took a number of positions that were anathema to the pro-immigrant advocacy community. She supported English the official language of the state. And she ran ads on the radio boasting about the work of the Kansas National Guard in building a fence on the Arizona-Mexico border to stop the "national crisis" of illegal immigrants crossing the border." In the ad, she blamed Washington politicians for failing to control the border. The ad stated, in part: "Kathleen Sebelius, committed to tough border security, a real crackdown on employers who hire illegal immigrants, and a strong National Guard."

Notwithstanding that tacking to the right, in late October of 2006, just weeks before the election, Governor Sebelius gave an interview in which she hinted at support for comprehensive immigration reform that would legalize undocumented aliens in the United States. During the interview she said of illegal immigration, "employers have a responsibility to follow the law." She continued, saying that "[s]ome employers intentionally hire illegal workers to beat the competition, and that's one of the areas the state can really do something about." She went on to say, "[i]t's unfair to workers here in the workforce. We need a national comprehensive discussion, whether it's talking about what we're doing at the border or those 14 million who are already here and who have families here. That isn't something we can deal with state by state."

On April 20, 2007, despite expressing support earlier in her career for providing driver's licenses to illegal aliens, Governor Sebelius signed into law legislation that precludes

³¹⁹ [Click Here](#) to see the press release issued by Governor Kathleen Sebelius on May 5, 2004, upon approval by the Kansas Legislature of Immigrant Tuition Bill

persons who are not lawfully present in the United States from obtaining a drivers license in Kansas. The bill, SB 9, requires employees of the Division of Motor Vehicles to be trained on document recognition and on federal rules used to determine lawful presence, with the bill prohibiting the division from issuing a drivers license or an instructional permit to any person who fails to provide proof of lawful presence in the United States.³²⁰

Additionally, the bill requires the applicant for a drivers license or instructional permit to submit proof of age, proof of identity and a photo identity document, as required by the division. A non-photo identity document may be used if it includes the applicant's full legal name, date of birth, address of principal residence and Social Security number.

Finally, among other things, the bill authorizes the division to disclose motor vehicle records to any federal, state or local agency to assist in carrying out the functions of that agency.

On May 17, 2007, Governor Sebelius signed into law a measure making English the state's official language. In an act of irony, on that same day, she signed a bill ensuring the state's retirement funds won't be invested in companies doing business in Sudan. Upon signing the latter bill, Governor Sebelius said, "[t]he horrific genocide taking place in Sudan is well-documented, and we want to have nothing to do with companies that are doing business in that nation so long as its government does nothing to stop the killing."

The English measure that Governor Sebelius signed, HB 2140, designated English as the official language of the State of Kansas for all public documents and official public meetings. Under the measure, no state agency or local government is required to provide documents in a language other than English, but they may use other languages at the agency or local government's discretion. The measure authorized the use of Braille in signage and documents, as well as communication in American Sign Language to accommodate persons with disabilities. It requires local entities such as political subdivisions, community-based agencies, migrant worker groups and refugee resettlement programs designated by the State Board of Regents to offer English language classes; English language training; citizenship classes for non-native speakers; and to seek assistance from listed groups in expanding awareness of the available classes and training.

A group of immigration restrictionists in the Kansas legislature made a determined, but unsuccessful effort in 2008 to pass a comprehensive immigration enforcement bill. The measure never made it to the Governor's desk.

In May of 2008, Governor Sebelius vetoed legislation that

sought to impose identification requirements on persons seeking to vote. The measure was aimed at preventing illegal immigrants from voting. In her veto message, the Governor asserted that the measure "goes against our state's long standing tradition of striving to achieve greater voter participation in our democratic process. The needless, additional identification requirements of HB 2019 will only work to disenfranchise many of the electorate and serve as a barrier to their participation in the democratic process."³²¹ ☀

Outlook. At the time of this writing, Governor Sebelius' nomination was not facing any major opposition in the Committee. ☀ ◇

This Week's Floor Activity

At the time of this writing, House or Senate floor action was scheduled on three measures that contain significant immigration- or refugee-related provisions or legislation that is likely to be the vehicle for significant immigration- or refugee-related floor amendments:

- [Alien Smuggling](#). The full House is expected to take up H.R. 1029, a measure designed to combat alien smuggling; and
- [Concurrent Resolution on the Budget](#).
 1. The full House is scheduled this week to take up its version of the fiscal year 2010 concurrent resolution on the budget.
 2. The full Senate is scheduled this week to take up its version of the fiscal year 2010 concurrent resolution on the budget.

House

Full House to Take Up Alien Smuggling Bill: The full House of Representatives this week is scheduled to take up legislation to combat the crime of alien smuggling. This week's floor action is set to occur on Tuesday, March 31, 2009, in connection with [H.R. 1029](#), the "Alien Smuggling and Terrorism Prevention Act of 2009".

Parliamentary Situation. The House of Representatives will take up H.R. 1029 under a procedure known as "suspension of the rules." Under this procedure, debate on a measure is limited to 40 minutes, equally divided between Democrats and Republicans, the measure is not subject to amendment, and it must receive the affirmative votes of two-thirds of those Members who are present and voting.

³²⁰ [Click Here](#) to see the press release issued by Governor Kathleen Sebelius upon signing SB 9, relating to drivers license fraud, into law

³²¹ [Click Here](#) to see the complete text of the May 18, 2008, veto message of Governor Kathleen Sebelius regarding HB 2019

Legislative History. H.R. 1029 was introduced by Representative Baron Hill (D-IN) on February 12, 2009. It was referred to the House Committee on the Judiciary and, in addition, to the House Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

Neither the House Judiciary Committee nor the House Committee on Homeland Security have taken up H.R. 1029. Both committees are expected to be discharged from consideration of the measure so that it can be brought directly to the House floor.

Summary of Immigration- and Refugee-Related Provisions. As introduced, H.R. 1029 would –

- direct the Secretary of Homeland Security to check against all available terrorist watchlists those alien smugglers and smuggled individuals who are interdicted at U.S. land, air, and sea borders;
- revise alien smuggling and related criminal offense and penalty provisions and provide extraterritorial jurisdiction over such offenses;
- limit a defense of necessity for knowingly bringing an illegal alien into the United States from the high seas;
- exempt from certain of such violations (transporting or harboring in the United States) a bona fide nonprofit, religious organization in the United States (or its agents or officers), unless the organization recruits, encourages, or induces an alien to come to or enter the United States, that encourages, invites, or enables an alien who is present in the United States to serve as a volunteer minister or missionary for such organization in the United States, provided the minister or missionary has been a member of the denomination for at least one year; and
- direct the United States Sentencing Commission to review and amend as appropriate sentencing guidelines and policy statements applicable to persons convicted of alien smuggling offenses and criminal failure to heave to or obstruction of boarding.

Anticipated Immigration- and Refugee-Related Floor Amendments. Under the process by which the House is taking up H.R. 1029, no floor amendments to the measure are permitted.

Outlook. The House of Representatives is expected to pass H.R. 1029 without controversy. ☼

Full House to Take Up Fiscal Year 2010 Budget Resolution: The full House of Representatives this week is

scheduled to take up its version of the fiscal year 2010 budget resolution. This week’s House floor action is set to take place on Wednesday, April 1, 2009, and continuing into Thursday, April 2, 2009, in connection with [H. Con. Res. 85](#),³²² the Concurrent Resolution on the Budget for Fiscal Year 2010.

Parliamentary Situation. The House Committee on Rules will not meet until later this week to recommend a rule providing for the consideration of the fiscal year 2010 budget resolution. However, the Committee is expected to recommend a rule that only provides for the consideration of complete substitutes to the budget resolution.

Legislative History. The House Committee on the Budget ordered that H. Con. Res. 85 be reported to the full House of Representatives on Wednesday, March 25, 2009, as an original measure. The Committee reported the measure on Friday, March 27, 2009.

Summary of Immigration- and Refugee-Related Provisions. As reported by the House Committee on the Budget, H. Con. Res. 85 does contain any provisions that would enable analysts to project how much would be spent in the coming fiscal year for particular immigration- or refugee-related departments, agencies, functions, programs or activities should Congress adopt the resolution. Indeed, the House Budget Committee-reported version of H. Con. Res. 85 and the report that accompanies it only contains three direct references to immigration- or refugee-related matters:

- Sense of the House on Homeland Security Funding. Section 602 of the House Budget Committee-reported version of H. Con. Res. 85 would express the sense of House “that because making the country safer and more secure is such a critical priority, the resolution therefore provides robust resources in the four budget functions-- Function 400 (Transportation), Function 450 (Community and Regional Development), Function 550 (Health), and Function 750 (Administration of Justice)-- that fund most nondefense homeland security activities that can be used to address our key security priorities ...” The section went on to list seven key security priorities, including “strengthening border security”.
- State Criminal Alien Assistance Program. The committee report accompanying H. Con. Res. 85 noted that the budget resolution supports the Department of Justice’s programs and initiatives “that provide ... important services to our communities” and included in its listing of such programs the State Criminal Alien Assistance Program (SCAAP), which reimburses states and localities for their incarceration costs.³²³

³²² [H. Rept. 111-60](#), March 27, 2009

³²³ [H. Rept. 111-60](#), March 27, 2009, Page 39

- Assistance to Refugees. The Committee report accompanying H. Con. Res. 85 notes that Function 150 covers funding for assisting refugees.³²⁴

In addition to containing the three direct references to homeland security, refugee, and border security funding, the House Budget Committee-Reported version of H. Con. Res. 85 would establish recommended levels of new budget authority for the three budgetary functions of government that fund most federal immigration services-, refugee-, border security-, and immigration enforcement-related agencies, programs and activities of the federal government.

The following summarizes funding recommended in the budget resolution for those three functions:

- Function 150 – International Affairs. Among the many agencies and activities that are encompassed in Function 150 is the Department of State’s Migration and Refugee Assistance (MRA) and Emergency Refugee Migration Assistance (ERMA) accounts, administered by the Department of State’s Bureau of Population, Refugees, and Migration (MRA).

For fiscal year 2010, H. Con. Res. 85 would provide \$10.2 billion (26.8 percent) more discretionary budget authority than the fiscal year 2009 level, excluding fiscal year 2009 supplemental funding, and \$5.8 billion (13.6 percent) more funding than the total amount that has been enacted for 2009 so far. The resolution would provide \$5.4 billion (9.9 percent) less than President Obama’s fiscal year 2010 budget, which includes his proposal to provide in the regular budget request funding that has in recent years been requested and appropriated as supplemental funding. Pursuant to the resolution, funding designated as an emergency or for overseas deployments and related activities does not count against the Appropriations Committee’s allocation provided in this resolution.

The fiscal year 2009 level of discretionary budget authority for function 150 includes \$4.5 BILLION in enacted supplemental appropriations. It does not include an additional \$7.1 billion in supplemental appropriations for 2009 that the President has said he plans to request for international affairs, which is included under Function 970 (Overseas Deployments and Related Activities).

- Function 500 – Education, Training, Employment, and Social Services. Among the many agencies and activities that are encompassed in Function 500 is the Department of Health and Human Services’ funding for refugee resettlement, assistance to trafficking victims and torture victims, and care for unaccompanied alien

children, all of which is administered by the Department’s Office of Refugee Resettlement (ORR).

The House Budget Committee-reported version of the fiscal year 2010 budget resolution recommends the precise amount of funding that President Obama has requested for the Education, Training, Employment, and Social Services function of the federal budget, which is \$93.689 BILLION.

- Function 750 – Administration of Justice. Among the many agencies and activities that are encompassed in Function 750 is the immigration court system, administered by the Department of Justice’s (DOJ) Executive Office for Immigration Review (EOIR). Also included in this function is interior immigration enforcement, administered by the Department of Homeland Security’s (DHS) Immigration and Customs Enforcement (ICE) bureau; border enforcement, administered by DHS’ Customs and Border Protection (CBP) bureau; and immigration service adjudication, administered by DHS’ U.S. Citizenship and Immigration Services (USCIS) bureau.

The committee report accompanying the House Budget Committee-reported version of the budget resolution notes that the resolution would provide “significant resources for our federal and local law enforcement programs, matching the level in the President’s budget.”

Anticipated Immigration- and Refugee-Related Floor Amendments. It is almost a certainty that the rule providing for the consideration of H. Con. Res. 85 that the House Committee on Rules is expected to recommend will preclude any amendments from being offered to the budget resolution except for complete substitutes. As such, it is unlikely that the full House of Representatives will vote on any amendment to H Con. Res. 85 that would have a direct impact on immigration-, refugee-, or border security-related spending.

Background on Budget Resolutions. Each year, Congress adopts a concurrent resolution on the budget (Budget Resolution), which establishes a blueprint for Congress’ actions on tax and spending legislation for the coming fiscal year. The Budget Resolution is not submitted to the President for his consideration. Instead, it is a non-binding concurrent resolution that must be passed by both chambers of Congress in identical form.

Under the budget process, the Budget Resolution must be approved in identical form by both the House of Representatives and the Senate by April 15 of each year. The probability of Congress meeting the April 15 deadline for a conferenced version of the budget resolution this year is remote. That is because the House and Senate are not likely to take up their respective versions of the budget resolution until next week, which is the last week before Congress

³²⁴ [H. Rept. 111-60, March 27, 2009, Page 11](#)

leaves Washington for a two week-long April recess. Once it leaves town, it will not return until Monday, April 20, 2009, five days after the deadline for producing a conferenced version of the Budget Resolution.

Most budget resolutions have five distinct parts:

- Recommended Levels of Spending and Revenue. First, it generally contains recommended levels of discretionary spending (both in aggregate and broken down by broad budget functions), entitlement spending, revenue collection, and deficit or surplus for the coming fiscal year and the four subsequent fiscal years;
- Budget Enforcement Rules. Second, it generally contains budget enforcement rules that seek to tie Congress's hands during the consideration of tax and spending legislation;
- Budget Reconciliation Instructions. Third, it generally contains "reconciliation instructions" to authorizing and revenue committees instructing them to "reconcile" permanent law so that entitlement spending does not exceed a specified amount and revenues do not fall below or exceed a specified amount for the coming fiscal year and the four subsequent fiscal years. The reconciliation process is a particularly important feature in the Senate. Bills implementing the budget resolution's "reconciliation instructions" receive greater protection from amendments in the Senate than other bills and are not subject to filibuster;
- Sense of Congress. Fourth, it generally contains nonbinding "Sense of the Senate" or "Sense of the House" provisions putting Congress on record as favoring particular programs or activities; and
- Reserve Funds. In recent years, budget resolutions have contained "reserve funds". Reserve fund grant the chairs of the House and Senate Budget Committees the authority to revise the committee spending allocations and other budget levels, after a budget resolution has been adopted, if certain legislation is reported by the appropriate committee or other conditions are met.

Once the Budget Resolution has been adopted in identical form by the Senate and House, a total amount of discretionary spending for the coming fiscal year is established. The Budget Resolution also establishes how much discretionary spending will be permitted in the coming fiscal year in each of 19 broad functions of government. These caps, called 302(a) allocations, get their name from section 302(a) of the Congressional Budget and Impoundment Act of 1974.

Once the function-by-function 302(a) allocations are made, the House and Senate leadership separately establish caps on spending for each of the 12 appropriations subcommittees.

These allocations, referred to as 302(b) allocations, permit the annual appropriations bills to be produced.

Overview of the Federal Budget. Federal spending is comprised of two types of expenditures. The first of these is discretionary spending, which is appropriated each year by Congress in its 12 regular appropriations bills. The second is mandatory spending (sometimes referred to as entitlement spending), which occurs automatically.

Entitlement spending takes place in such programs as Social Security, Medicare, and Food Stamps. In these and other such programs, federal funds flow automatically to everyone who is eligible for its benefits. The only way to cut entitlement spending is for Congress to change the eligibility criteria for an entitlement program so that fewer people are eligible to participate in or get funds from it.

Revenue comes into the Federal treasury automatically, as well, based on permanent tax law. The only way for Congress to increase or decrease projected revenue is for it to enact tax legislation either increasing or decreasing taxes.

The budget resolution does not actually spend funds or raise revenue; it merely establishes targets and spending caps and it issues reconciliation instructions to committees. Consequently, the only impact that the measure has on immigration- and refugee-related spending is the overall discipline on spending that forces proponents of increased immigration- or refugee-spending to compete with other areas of spending during the appropriations process. As such, it is impossible to discern what the precise impact will be on any specific program or activity of government.

Potential Immigration-Related Consequences of the Budget Resolution. The budget resolution does not usually contain provisions that would enable analysts to project how much will be spent in the coming fiscal year for particular immigration- or refugee-related departments, agencies, functions, programs or activities. The resolutions have, at times, contained directives to committees demanding that they produce legislation on specified immigration-related matters. And they have, in recent years, contained reserve funds for particular immigration-related functions.

Most immigration and refugee spending takes place in three broad functions of government: International Affairs; Education, Training, Employment and Social Services; and Administration of Justice. And so the key question at this stage of the process is the degree to which those broad functions of government are to be funded.

The chart that follows compares the amount recommended in the House Budget Committee-Reported version of the fiscal year 2010 budget resolution for the three functions that contain immigration-related funding with the amounts provided in fiscal year 2009 and in the Senate Budget Committee-Reported version of the budget resolution.

**FY '10 Functional Breakdown of
Immigration and Refugee Spending in
Obama Budget and the House- and Senate Budget
Committees' Budget Resolutions**

Function	Office	'09 Actual	'10 Obama	'10 House	'10 Senate
(150) Intern'l Affairs	PRM ³²⁵	\$40.885	\$50.520	\$45.320	\$46,670
(500) Education, Training, Emplmnt, and Social Services	ORR ³²⁶	\$164.276	\$93.689	\$93.689	\$94,430
(750) Admin' of Justice	USCIS ³²⁷ ICE ³²⁸ CBP ³²⁹ EOIR ³³⁰	\$55.783	\$52.857	\$52.857	\$52,857

Outlook. The House will almost certainly reject all floor amendments to H. Con. Res. 85 and agree to the measure. In all likelihood, the House will agree to the measure largely on partisan lines, with most Democrats supporting the measure and virtually all Republicans opposing it. ☀

³²⁵ Department of State's Bureau of Population, Refugees, and Migration, which oversees the Department of State's refugee admissions and overseas refugee assistance programs

³²⁶ Department of Health and Human Services' Office of Refugee Resettlement, which oversees the Department's refugee resettlement, torture victim assistance, trafficking victim assistance, and unaccompanied alien children programs

³²⁷ Department of Homeland Security's U.S. Citizenship and Immigration Services bureau, which administers immigration and refugee benefit adjudication and service activities

³²⁸ Department of Homeland Security's Bureau of Immigration and Customs Enforcement, which administers federal government's interior immigration and customs enforcement activities

³²⁹ Department of Homeland Security's Bureau of Customs and Border Protection, which administers the federal government's border enforcement activities

³³⁰ Department of Justice's Executive Office for Immigration Review, which administers the federal government's immigration court system

Senate

Full Senate to Take Up Fiscal Year 2010 Budget Resolution:

The full Senate this week is scheduled to take up its version of the fiscal year 2010 budget resolution. This week's Senate floor action is set to begin at 11:00 am on Monday, March 30, 2009, and is likely to extend throughout the week. When the Senate acts, it will be acting in connection with [S. Con. Res. 13](#),³³¹ an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2010, revising the appropriate budgetary levels for fiscal year 2009, and setting forth the appropriate budgetary levels for fiscal years 2011 through 2014.

Parliamentary Situation. Under the rules of the Senate, a budget resolution is not subject to a filibuster. There is a limit of 50 hours of debate on a budget resolution, and a simple majority of those senators who are present and voting are required to vote in favor of a budget resolution in order for the Senate to agree to it.

The budget resolution is amendable. However, any amendment that would violate budget rules requires a supermajority of 60 votes in order for it to pass the Senate. At the time of this writing, no unanimous consent agreement was in place governing the amendment process.

The limitation of 50 hours of Senate floor debate on the budget resolution often results in a stack-up of votes toward the end of Senate floor consideration of the budget resolution, whereby scores of amendments are voted on in the waning hours of Senate floor consideration, often without any debate on the amendments being voted on. This stack-up of votes is popularly known as a "Vote-A-Rama".

Legislative History. The Senate Committee on the Budget ordered that S. Con. Res. 13 be reported to the full Senate on Thursday, March 26, 2009, as an original measure. The Committee reported the measure on Friday, March 27.

Summary of Immigration- and Refugee-Related Provisions.

As reported by the Senate Committee on the Budget, S. Con. Res. 13 does contain any provisions that would enable analysts to project how much would be spent in the coming fiscal year for particular immigration- or refugee-related departments, agencies, functions, programs or activities should Congress adopt it. Indeed, the Senate Budget Committee-reported version of S. Con. Res. 13 does not contain any direct references to immigration- or refugee-related matters.

The Senate Budget Committee-Reported version of S. Con. Res. 13 would establish recommended levels of new budget authority for the three budgetary functions of government that fund most federal immigration services-, refugee-, border

³³¹ [S. Rept. 111-11](#), March 27, 2009

security-, and immigration enforcement-related agencies, programs and activities of the federal government.

The following summarizes funding recommended for those three functions in the Senate Budget Committee-reported version of the budget resolution:

- **Function 150 – International Affairs.** Among the many agencies and activities that are encompassed in Function 150 is the Department of State’s Migration and Refugee Assistance (MRA) and Emergency Refugee Migration Assistance (ERMA) accounts, administered by the Department of State’s Bureau of Population, Refugees, and Migration (MRA).

S. Con. Res. 13 would provide \$46.670 BILLION in fiscal year 2010 for Function 150. This would be \$3.85 BILLION less than the Obama Administration requested in the Obama fiscal year 2010 budget overview but \$1.35 BILLION more than is contained in the House Budget Committee-reported version of the fiscal year 2010 budget resolution.

- **Function 500 – Education, Training, Employment, and Social Services.** Among the many agencies and activities that are encompassed in Function 500 is the Department of Health and Human Services’ funding for refugee resettlement, assistance to trafficking victims and torture victims, and care for unaccompanied alien children, all of which is administered by the Department’s Office of Refugee Resettlement (ORR).

S. Con. Res. 13 would provide \$94.430 BILLION in fiscal year 2010 for function 500. This would be \$.741 BILLION less than both the Obama Administration requested in its fiscal year 2010 budget overview and the amount that is contained in the House Budget Committee-reported version of the fiscal year 2010 budget resolution.

- **Function 750 – Administration of Justice.** Among the many agencies and activities that are encompassed in Function 750 is the immigration court system, administered by the Department of Justice’s (DOJ) Executive Office for Immigration Review (EOIR). Also included in this function is interior immigration enforcement, administered by the Department of Homeland Security’s (DHS) Immigration and Customs Enforcement (ICE) bureau; border enforcement, administered by DHS’ Customs and Border Protection (CBP) bureau; and immigration service adjudication, administered by DHS’ U.S. Citizenship and Immigration Services (USCIS) bureau.

S. Con. Res. 13 would provide \$52.857 BILLION in fiscal year 2010 for function 750. This is the same amount that both the Obama Administration requested in its fiscal year 2010 budget overview and that is contained

in the House Budget Committee-reported version of the fiscal year 2010 budget resolution.

The chart that follows compares the amount recommended in the Senate Budget Committee-Reported version of the fiscal year 2010 budget resolution for the three functions that contain immigration-related funding with the amounts provided in fiscal year 2009 and in the House Budget Committee-Reported version of the budget resolution.

**FY '10 Functional Breakdown of
Immigration and Refugee Spending in
Obama Budget and the House- and Senate Budget
Committees’ Budget Resolutions**

Function	Office	'09 Actual	'10 Obama	'10 House	'10 Senate
(150) Intern'l Affairs	PRM ³²⁵	\$40.885	\$50.520	\$45.320	\$46,670
(500) Education, Training, Emplmnt, and Social Services	ORR ³²⁶	\$164.276	\$93.689	\$93.689	\$94,430
(750) Admin' of Justice	USCIS ³²⁷ ICE ³²⁸ CBP ³²⁹ EOIR ³³⁰	\$55.783	\$52.857	\$52.857	\$52,857

Anticipated Immigration- and Refugee-Related Floor Amendments. Republicans are expected to offer dozens of amendments to the budget resolution while the full Senate considers the measure. However, at the time of this writing, no specific immigration- or refugee-related amendment had yet been noticed.

Outlook. The Senate usually adopts budget resolutions along partisan lines, with few senators in the minority party voting in favor of them and few senators in the majority party voting against them. At the time of this writing, it was too early to predict whether the emergence of a group of “centrist” Democrats will have any impact on the usual course of events in the Senate as it takes up the fiscal year 2010 budget resolution. ☼ ◇

This Week’s Conference Activity

At the time of this writing, no measures containing significant immigration- or refugee-related provisions are currently pending in conference committees. ◇

This Week’s Executive Activity

Administration Could Submit FY '09 War Supplemental As Soon As This Week: The Obama Administration is expected as soon as this week to submit a

\$75.5 BILLION request for supplemental fiscal year 2009 funding for the wars in Iraq and Afghanistan. Past war supplemental appropriations requests from President George W. Bush often contained requests for additional funding for refugees. However, it was not known at the time of this writing whether the Obama Administration would include funding for refugee programs in its request. ☼ ◇

Last Week's Legislative Activity

Last Week's Hearings

Three House panels held hearings last week at which significant immigration- or refugee-related matters were discussed:

- Violence along the U.S. Border with Mexico. Two Committees held hearings examining violence along the U.S. border with Mexico—
 1. Senate Homeland Security. The Senate Committee on Homeland Security and Governmental Affairs held a hearing on violence along the U.S. border with Mexico; and
 2. House Appropriations Committee. The House Appropriations Subcommittee on Commerce, Justice, and Science held a hearing examining the Federal law enforcement response to U.S.-Mexico border violence; and
- FBI Oversight. The Senate Committee on the Judiciary held an oversight hearing on the FBI.

House Appropriations Panel Holds Hearing on U.S.-Mexico Border Violence: The House Appropriations Subcommittee on Commerce, Justice, and Science held a hearing last week on the federal law enforcement response to U.S.-Mexico border violence. Last week's hearing took place on Tuesday, March 24, 2009.

Witnesses. The witnesses at this week's hearing included:

- Bill Newell, Special Agent In Charge, Phoenix Division, Bureau of Alcohol, Tobacco and Firearms and Explosives;
- Joseph Arabit, Special Agent In Charge, El Paso Division, Drug Enforcement Administration;
- Phil Gordon, Mayor, City of Phoenix, Arizona; and
- David Shirk, Associate Professor of Political Science, University of San Diego, and Director, Trans-Border Institute. ☼

Senate Panel Holds Oversight Hearing on the FBI:

The Senate Committee on the Judiciary last week held an oversight hearing on the Federal Bureau of Investigation (FBI). Last week's hearing occurred on Wednesday, March 25, 2009.

Witnesses. The sole witness at last week's hearing was Robert S. Mueller III, Director of the FBI.

Hearing Recap. There was virtually no discussion of immigration at last week's hearing.³³² ☼

Senate Panel Holds Hearing on Border Violence:

The Senate Committee on Homeland Security and Governmental Affairs has scheduled a hearing for this week on the national and homeland security consequences of violence along the U.S.-Mexico border. This week's hearing is scheduled for Wednesday, March 25, 2009, in Room SD-342 of the Dirksen Senate Office Building.³³³

Witnesses. The witnesses at last week's hearing included—

Panel I

- Secretary of Homeland Security Janet Napolitano.

Panel II

- David Ogden, Deputy Attorney General, United States Department of Justice; and
- James B. Steinberg, Deputy Secretary, Department of State. ☼

Statement of Witnesses. The following links to the prepared statements of the witnesses at last week's hearing.

- Secretary Napolitano. In her prepared testimony, Secretary Janet Napolitano largely blamed the violence in Mexico on drug cartels operating there. She declared that the violence there “is not only an international threat. It is a homeland security issue in which all Americans have a stake. America has a significant security stake in the success of Mexico's efforts against drug cartels. The cartels that Mexican authorities are battling are the same criminal organizations that put drugs on our streets and use violence as a tool of their trade. Illegal drugs, money, and weapons flow both ways across our border and inextricably link the United States and Mexico in our efforts against drug cartels.”

³³² [Click Here](#) to see video of the March 25, 2009, Senate Judiciary Committee oversight hearing on the FBI

³³³ [Click Here](#) to see video of the March 25, 2009, Senate Homeland Security and Governmental Affairs Committee hearing on southern border violence

Secretary Napolitano outlined the Administration's just released plan to combat violence along the U.S.-Mexico border, which she described as "bolstering the resources dedicated to this mission and taking a number of new steps."³³⁴

In outlining the Administration's plan, Napolitano asserted that "[f]irst, we must provide assistance to the Mexican government in its efforts to defeat the drug cartels and thereby suppress the flare-up of violence in Mexico. Second, we must take action on our side of the border to cripple smuggling enterprises. Third, we must guard against and prepare for the possible spillover of violence into the United States. The Department of Homeland Security is working with the Departments of State, Justice, and Defense, as well as with border states and border communities, on all of these fronts."

The Secretary asserted in her testimony her belief that "the United States can effectively help to suppress the violence in Mexico, by both doing our part on our side of the border and providing assistance to Mexican authorities. However, this does not mitigate our need to plan for worst-case scenarios, even if they are unlikely – and not only scenarios where the United States encounters significant spillover violence, but also other situations where DHS capabilities could be strained as a result of ongoing violence."

Secretary Napolitano said that "DHS has a plan in place to address border violence, authorized by former Secretary Chertoff in January. The plan, known as the Southwest Border Violence Operations Plan ("the Plan"), outlines a layered response to provide the appropriate level of support to local law enforcement and DHS components in the event of escalating violence. State and local law enforcement, however, had little input into the Plan, so we are in the process of collecting that input now, before the Plan is final.

The Plan provides a structure by which DHS and the federal government can coordinate an effective response, while remaining flexible to conditions on the ground."

The Secretary continued, saying that "[b]ecause of their predominant role at the border, CBP would serve as the lead DHS component responsible for the effort to prevent and respond to a significant escalation of violence along the southwest border, while the Plan also clarifies and coordinates the roles of other DHS components.

There are a number of cabinet departments and federal agencies involved in this effort to fight violence on the southwest border that DHS needs to partner with on contingency plans. The Department of Defense has been a close partner in scenario planning. Under current plans, any Defense support in responding to a border violence scenario would include the Department of Defense in a supporting role at a late stage. However, we are working with the Department of Defense to determine if there are other support roles for the Department of Defense to assist us in securing our southwestern border."

Secretary Napolitano said that she has "asked my department that the Southwest Border Violence Operations Plan be revised to determine whether it will be responsive to other challenging contingencies apart from a rise in violence along the border. She said that "[w]e are also increasing DHS awareness of how state and local law enforcement resources are positioned, and how to coordinate calls for assistance from state and local governments. DHS is working among its components to develop an overarching plan that integrates existing component plans into one Department plan. This overarching plan will enhance the Department's ability to fully leverage all of our component capabilities in this critical effort. DHS' Office of Operations Coordination and Planning, which led on devising the current plan, will lead efforts to plan for additional scenarios, and to fully engage our state, local and tribal partners in DHS planning."

- Deputy Attorney General Ogden. In his prepared statement, Deputy Attorney General Ogden said that "[t]he explosion of violence along the Southwest border is being caused by a limited number of large, sophisticated and vicious criminal organizations, not by individual drug traffickers acting in isolation." He also said, "the Department's National Drug Intelligence Center has identified the Mexican drug trafficking organizations (DTOs) as the greatest organized crime threat facing the United States today. That insight drives our response. There is much to do and much to improve upon. But the Department's strategy – built on its proven track record in dismantling transnational organized criminal groups, such as the mafia in the 1980s and 1990s – confronts the Mexican cartels as criminal organizations, rather than simply responding to individual acts of criminal violence. Pursued vigorously, and in coordination with the efforts of other U.S. government agencies like the Departments of State and Homeland Security and with the full cooperation of the Government of Mexico, this strategy can and will neutralize the organizations causing the violence."³³⁵

³³⁴ [Click Here](#) to see the complete text of Secretary of Homeland Security Janet Napolitano's prepared statement at the March 25, 2009, Senate Homeland Security and Governmental Affairs Committee hearing on southern border violence

³³⁵ [Click Here](#) to see the complete text of Deputy Attorney General David Ogden's prepared statement at the March 25, 2009, Senate Homeland Security and Governmental Affairs Committee hearing on southern border violence

Deputy Attorney General Ogden said in his testimony that the Department's strategy to identify, disrupt, and dismantle the Mexican drug cartels has five key elements.

1. First, the strategy employs extensive and coordinated intelligence capabilities. The Department pools information generated by our law enforcement agencies and federal, state and local government partners, and then uses the product systematically to direct operations in the United States and assist the efforts of the Mexican authorities to attack the cartels and the corruption that facilitates their operations.
2. Second, led by experienced prosecutors, the Department focuses its efforts on investigation, extradition, prosecution, and punishment of key cartel leaders. As the Department has demonstrated in attacking other major criminal enterprises, destroying the leadership and financial assets of the cartels will undermine the entire organizations.
3. Third, the Department pursues investigations and prosecutions related to the smuggling of guns, cash, and contraband for drug-making facilities from the United States into Mexico. The violence and corruption in Mexico are fueled by these resources that come from our side of the border.
4. Fourth, the Department uses traditional law enforcement approaches to address spillover effects of cartel violence in the United States. These effects include the widespread distribution of drugs on our streets and in our neighborhoods, battles between members of rival cartels on American soil, and violence directed against U.S. citizens and government interests.
5. Fifth, the Department prosecutes criminals responsible for the smuggling, kidnapping and violence in federal court. The ultimate goals of these operations are to neutralize the cartels and bring the criminals to justice.

The Deputy Attorney General went on at length to describe what the Department of Justice was planning to do to address each of the key elements of its strategy to deal with the problem of violence along the U.S.-Mexico border, as well as the additional resources the Department was planning to devote to the effort.

Deputy Attorney General Ogden concluded his statement by asserting that "[i]n order to attack the full spectrum of the drug cartels' operations – drug trafficking, kidnapping, bribery, extortion, money laundering and

smuggling of profits, and trafficking and use of dangerous weapons – we must employ the full spectrum of our law enforcement agencies' resources, expertise, and statutory authorities. By continuing to work together, building on what we have done well so far and developing new ideas to refresh our strategies, we can rise to the current challenge."

- Deputy Secretary of State Steinberg. Much of Deputy Secretary of State Steinberg's testimony focused on Secretary of State Clinton's trip to Mexico to meet with the Mexican President and the Department's operation of the "Merida Initiative."³³⁶

Last Week's Markups

Two Congressional committees held markups last week that either became the vehicle for significant immigration- or refugee-related provisions or that had a significant impact on immigration- or refugee-related matters:

- House Budget Resolution. The House Committee on the Budget marked up its version of the fiscal year 2010 budget resolution; and
- Senate Budget Resolution. The Senate Committee on the Budget marked up its version of the fiscal year 2010 budget resolution.

House

House Budget Committee Conducts All-Day Markup of FY '10 Budget Resolution: The House Committee on the Budget last week approved its version of the fiscal year 2010 budget resolution. Last week's committee action occurred in connection with H. Con. Res. 85,³²² which the Committee approved on Wednesday, March 25, 2009, by a party-line vote of 24-19.

Summary of Immigration- and Refugee-Related Provisions. As reported by the House Committee on the Budget, H. Con. Res. 85 does contain any provisions that would enable analysts to project how much would be spent in the coming fiscal year for particular immigration- or refugee-related departments, agencies, functions, programs or activities should Congress adopt the resolution. Indeed, the House Budget Committee-reported version of H. Con. Res. 85 and the report that accompanies it only contains three direct references to immigration- or refugee-related matters:

- Sense of the House on Homeland Security Funding. Section 602 of the House Budget Committee-reported version of H. Con. Res. 85 would express the sense of

³³⁶ [Click Here](#) to see the complete text of Deputy Secretary of State James B. Steinberg's prepared statement at the March 25, 2009, Senate Homeland Security and Governmental Affairs Committee hearing on southern border violence

House “that because making the country safer and more secure is such a critical priority, the resolution therefore provides robust resources in the four budget functions-- Function 400 (Transportation), Function 450 (Community and Regional Development), Function 550 (Health), and Function 750 (Administration of Justice)-- that fund most nondefense homeland security activities that can be used to address our key security priorities ...” The section went on to list seven key security priorities, including “strengthening border security”.

- State Criminal Alien Assistance Program. The committee report accompanying H. Con. Res. 85 noted that the budget resolution supports the Department of Justice’s programs and initiatives “that provide ... important services to our communities” and included in its listing of such programs the State Criminal Alien Assistance Program (SCAAP), which reimburses states and localities for their incarceration costs.³³⁷
- Assistance to Refugees. The Committee report accompanying H. Con. Res. 85 notes that Function 150 covers funding for assisting refugees.³³⁸

In addition to containing the three direct references to homeland security, refugee, and border security funding, the House Budget Committee-Reported version of H. Con. Res. 85 would establish recommended levels of new budget authority for the three budgetary functions of government that fund most federal immigration services-, refugee-, border security-, and immigration enforcement-related agencies, programs and activities of the federal government.

The following summarizes funding recommended in the budget resolution for those three functions:

- Function 150 – International Affairs. Among the many agencies and activities that are encompassed in Function 150 is the Department of State’s Migration and Refugee Assistance (MRA) and Emergency Refugee Migration Assistance (ERMA) accounts, administered by the Department of State’s Bureau of Population, Refugees, and Migration (MRA).

For fiscal year 2010, H. Con. Res. 85 would provide \$10.2 billion (26.8 percent) more discretionary budget authority than the fiscal year 2009 level, excluding fiscal year 2009 supplemental funding, and \$5.8 billion (13.6 percent) more funding than the total amount that has been enacted for 2009 so far. The resolution would provide \$5.4 billion (9.9 percent) less than President Obama’s fiscal year 2010 budget, which includes his proposal to provide in the regular budget request funding that has in recent years been requested and appropriated

as supplemental funding. Pursuant to the resolution, funding designated as an emergency or for overseas deployments and related activities does not count against the Appropriations Committee’s allocation provided in this resolution.

The fiscal year 2009 level of discretionary budget authority for function 150 includes \$4.5 BILLION in enacted supplemental appropriations. It does not include an additional \$7.1 billion in supplemental appropriations for 2009 that the President has said he plans to request for international affairs, which is included under Function 970 (Overseas Deployments and Related Activities).

- Function 500 – Education, Training, Employment, and Social Services. Among the many agencies and activities that are encompassed in Function 500 is the Department of Health and Human Services’ funding for refugee resettlement, assistance to trafficking victims and torture victims, and care for unaccompanied alien children, all of which is administered by the Department’s Office of Refugee Resettlement (ORR).

The House Budget Committee-reported version of the fiscal year 2010 budget resolution recommends the precise amount of funding that President Obama has requested for the Education, Training, Employment, and Social Services function of the federal budget, which is \$93.689 BILLION.

- Function 750 – Administration of Justice. Among the many agencies and activities that are encompassed in Function 750 is the immigration court system, administered by the Department of Justice’s (DOJ) Executive Office for Immigration Review (EOIR). Also included in this function is interior immigration enforcement, administered by the Department of Homeland Security’s (DHS) Immigration and Customs Enforcement (ICE) bureau; border enforcement, administered by DHS’ Customs and Border Protection (CBP) bureau; and immigration service adjudication, administered by DHS’ U.S. Citizenship and Immigration Services (USCIS) bureau.

The committee report accompanying the House Budget Committee-reported version of the budget resolution notes that the resolution would provide “significant resources for our federal and local law enforcement programs, matching the level in the President’s budget.”

Committee Consideration. The Committee considered 30 amendments to the draft budget resolution during its March 25, 2009, markup, adopting only one of those amendments. None of the 30 amendments would have had a significant impact on immigration- or refugee-related spending.

³³⁷ [H. Rept. 111-60, March 27, 2009, Page 39](#)

³³⁸ [H. Rept. 111-60, March 27, 2009, Page 11](#)

Next Steps. Now that the House Committee on the Budget has reported H. Con. Res. 85 to the full House, the next step in the legislative process is full House consideration of the measure. The House is expected to take up the resolution this week. ☀

Senate

Senate Budget Committee Approves FY '10 Budget Resolution:

The Senate Committee on the Budget last week approved its version of the fiscal year 2010 budget resolution. Last week's committee action occurred in connection with [S. Con. Res. 13](#),³³⁹ an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2010, revising the appropriate budgetary levels for fiscal year 2009, and setting forth the appropriate budgetary levels for fiscal years 2011 through 2014. The Committee began considering the measure on Wednesday, March 25, 2009, and approved it on March 26, 2009, by a party-line vote of 13-10.

Summary of Immigration- and Refugee-Related Provisions.

As reported by the Senate Committee on the Budget, S. Con. Res. 13 does contain any provisions that would enable analysts to project how much would be spent in the coming fiscal year for particular immigration- or refugee-related departments, agencies, functions, programs or activities should Congress adopt it. Indeed, the Senate Budget Committee-reported version of S. Con. Res. 13 does not contain any direct references to immigration- or refugee-related matters.

The Senate Budget Committee-Reported version of S. Con. Res. 13 would establish recommended levels of new budget authority for the three budgetary functions of government that fund most federal immigration services-, refugee-, border security-, and immigration enforcement-related agencies, programs and activities of the federal government.

The following summarizes funding recommended for those three functions in the Senate Budget Committee-reported version of the budget resolution:

- **Function 150 – International Affairs.** Among the many agencies and activities that are encompassed in Function 150 is the Department of State's Migration and Refugee Assistance (MRA) and Emergency Refugee Migration Assistance (ERMA) accounts, administered by the Department of State's Bureau of Population, Refugees, and Migration (MRA).

S. Con. Res. 13 would provide \$46.670 BILLION in fiscal year 2010 for Function 150. This would be \$3.85 BILLION less than the Obama Administration requested in the Obama fiscal year 2010 budget overview but \$1.35 BILLION more than is contained in the House Budget

Committee-reported version of the fiscal year 2010 budget resolution.

- **Function 500 – Education, Training, Employment, and Social Services.** Among the many agencies and activities that are encompassed in Function 500 is the Department of Health and Human Services' funding for refugee resettlement, assistance to trafficking victims and torture victims, and care for unaccompanied alien children, all of which is administered by the Department's Office of Refugee Resettlement (ORR).

S. Con. Res. 13 would provide \$94.430 BILLION in fiscal year 2010 for function 500. This would be \$.741 BILLION less than both the Obama Administration requested in its fiscal year 2010 budget overview and the amount that is contained in the House Budget Committee-reported version of the fiscal year 2010 budget resolution.

- **Function 750 – Administration of Justice.** Among the many agencies and activities that are encompassed in Function 750 is the immigration court system, administered by the Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR). Also included in this function is interior immigration enforcement, administered by the Department of Homeland Security's (DHS) Immigration and Customs Enforcement (ICE) bureau; border enforcement, administered by DHS' Customs and Border Protection (CBP) bureau; and immigration service adjudication, administered by DHS' U.S. Citizenship and Immigration Services (USCIS) bureau.

S. Con. Res. 13 would provide \$52.857 BILLION in fiscal year 2010 for function 750. This is the same amount that both the Obama Administration requested in its fiscal year 2010 budget overview and that is contained in the House Budget Committee-reported version of the fiscal year 2010 budget resolution.

The Committee considered numerous amendments to the draft budget resolution during its March 26, 2009 through March 27, 2009 markup, adopting some but rejecting most. None of the amendments that were offered in Committee would have had a significant impact on immigration- or refugee-related spending.

Next Steps. Now that the Senate Committee on the Budget has reported S. Con. Res. 13 to the full Senate, the next step in the legislative process is full Senate consideration of the measure. The Senate is expected to take up the resolution this week. ☀ ◇

Last Week's Floor Actions

There was no floor action last week on measures containing significant immigration- or refugee-related provisions.

³³⁹ [S. Rept. 111-11](#), March 27, 2009

Last Week's Conference Activity

There was no conference committee activity last week on measures that contain significant immigration- or refugee-related provisions. ◇

Last Week's Executive Activity

Administration Announces Plan to Beef Up Presence Along the Border with Mexico:

The Obama Administration last week announced a plan to respond to violence along the U.S.-Mexico border. The Administration announced the plan on Tuesday, March 24, 2009, as Secretary of State Hillary Rodham Clinton prepared to make a visit to Mexico to meet with Mexican President Felipe Calderon.

Under the White House plan, two White House offices, the National Security Council and the Homeland Security Council, will coordinate the initiative. The initiative will draw upon the resources of the Departments of Defense, Homeland Security, Justice, State and Treasury.³⁴⁰

The White House said the effort will include \$700 million to help Mexican law enforcement and judicial systems to battle drug cartels under the Merida Initiative, a partnership involving the United States, Mexico and several nations in Central America and the Caribbean. The program aims to provide training, equipment and intelligence to fight drug trafficking, transnational crime and money laundering.

Among the highlights of the Administration's plan are—

- DHS intends to send more than 360 additional officers and agents to the border and Mexico.
- DHS intends to double assignments to Border Enforcement Security Task Forces (BEST), from 95 to 190 personnel. The teams serve under Immigration and Customs Enforcement (ICE).
- DHS plans to triple the number of intelligence analysts it has on the southern border.
- ICE plans to increase its attaché personnel that work with the Mexican attorney general by 50 percent, to 36 agents.
- ICE plans to double the number of agents in violent crime-alien departments along the border, adding 50 agents and officers, at a cost of \$2.3 million.

³⁴⁰ [Click Here](#) to see the transcript of a March 24, 2009, press briefing on the Administration's U.S.-Mexico border initiative involving White House Press Secretary Robert Gibbs, Secretary of Homeland Security Janet Napolitano, and other Administration officials

- ICE plans to quadruple the number of border liaison officers, from 10 to 40. ☼ ◇

Recently Introduced Legislation

The following bills containing significant immigration- or refugee-related provisions were introduced last week:

House

Control of Illegal Immigration

- **Border Control and Contractor Accountability Act of 2009:** Representative Virginia "Ginny" Brown-Waite (R-FL) has introduced H.R. 1668, a bill to debar or suspend contractors from Federal contracting for unlawful employment of aliens, and for other purposes.

As introduced, H.R. 1668 would debar or suspend for three years federal contracting for employers who hire illegally aliens; require the Small Business Administration to establish a liaison with USCIS; authorize the Secretary of Homeland Security to enter into contracts with private entities for the purpose of providing secure domestic transport of aliens who are apprehended at or along the international land or maritime borders of the United States from the custody of the Border Patrol to detention facilities; and require all contractees with the Department of Homeland Security to use the Basic Pilot electronic employment eligibility verification system.

It has been referred to the House Committee on Homeland Security and House Committee on Oversight and Government Reform.

Tribal Government Homeland Security Coordination and Integration Act: Representative Frank Pallone, Jr.(D-NJ) has introduced H.R. 1697, a bill to ensure the coordination and integration of Indian tribes in the National Homeland Security strategy and to establish an Office of Tribal Government Homeland Security within the Department of Homeland Security, and for other purposes.

As introduced, H.R. 1697 seeks to ensure the coordination and integration of Indian tribes in the National Homeland Security strategy by establishing an Office of Tribal Government Homeland Security within the Department of Homeland Security.

It has been referred to the Not Known and House Committee on Homeland Security.

Criminal Aliens

- **Justice for the Newark College Students Act:** Representative Charlie Dent (R-PA) has introduced H.R. 1663, a bill to require State and local law enforcement agencies to determine the immigration status of all individuals arrested by such agencies for a felony, to require such agencies to report to the Secretary of Homeland Security when they have arrested for a felony an alien unlawfully present in the United States, to require mandatory Federal detention of such individuals pending removal in cases where they are not otherwise detained, and for other purposes

As introduced, H.R. 1663 would require State and local law enforcement agencies to determine the immigration status of all individuals arrested by such agencies for a felony, to require such agencies to report to the Secretary of Homeland Security when they have arrested for a felony an alien unlawfully present in the United States, to require mandatory Federal detention of such individuals pending removal in cases where they are not otherwise detained.

It has been referred to the House Committee on the Judiciary.

- **One Strike Act:** Representative Virginia "Ginny" Brown-Waite (R-FL) has introduced H.R. 1753, a bill to amend the Immigration and Nationality Act to include in the definition of the term "aggravated felony" a criminal violation committed by an alien who unlawfully entered the United States.

As introduced, H.R. 1753 would amend the Immigration and Nationality Act to include in the definition of the term "aggravated felony" a criminal violation committed by an alien who unlawfully entered the United States.

It has been referred to the House Committee on the Judiciary.

Employment-Based Immigration System

- **Dairy and Sheep H-2A Visa Enhancement Act of 2008:** Representative John M. McHugh (R-NY) has introduced H.R. 1660, a bill to amend the Immigration and Nationality Act to provide a special rule for the period of admission of H-2A nonimmigrants employed as dairy workers and shepherders, and for other purposes.

As introduced, H.R. 1660 would amend the Immigration and Nationality Act to provide a special rule for the period of admission of H-2A nonimmigrants employed as dairy workers and shepherders. It has been referred to the House Committee on the Judiciary and House Committee on Education and Labor.

Legalization

- **DREAM Act:** Representative Howard L. Berman (D-CA) has introduced H.R. 1751, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children, and for other purposes.

As introduced, H.R. 1751 would permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children.

It has been referred to the House Committee on the Judiciary and House Committee on Education and Labor.

Senate

Control of Illegal Immigration

- **Use of Civil Air Patrol to Guard the U.S. Border with Mexico:** Senator Tom Harkin (D-IA) has introduced S. 704, a bill to direct the Comptroller General of the United States to conduct a study on the use of Civil Air Patrol personnel and resources to support homeland security missions, and for other purposes.

As introduced, S. 704 would direct the Comptroller General of the United States to conduct a study on the use of Civil Air Patrol personnel and resources to support homeland security missions.

It has been referred to the Senate Committee on Homeland Security and Governmental Affairs.

Legalization

- **DREAM Act:** Senator Richard J. Durbin (D-IL) has introduced S. 729, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children, and for other purposes.

As introduced, S. 729 would amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of

certain alien students who are long-term United States residents and who entered the United States as children.

It has been referred to the Senate Committee on the Judiciary. ◇

Bills in Development

Next week's and future Weekly Immigration and refugee Legislative Updates will include a brief listing of several immigration- or refugee-related bills that are currently under development and that could soon be introduced in the Senate or House of Representatives. In each week's listing, items that were added or that have substantially changed since the previous edition of the Weekly Legislative Update was issued will be marked with a double asterisk (**).

Over the Horizon ...

The following is a listing of several immigration- or refugee-related items that have either not yet been scheduled for action in Congress or on which it is anticipated that some Congressional will occur within the next several weeks.

Items added to this listing since the previous edition of the Weekly Legislative Update and items on the listing which have substantially changed since the last Weekly Legislative Update was issued are marked with a double asterisk (**).

House

No items this week.

Senate

****Senate Panel to Hold Field Hearing in Arizona on Border Violence:** The Senate Homeland Security and Governmental Affairs Committee anticipates holding a field hearing sometime in April, at which it will examine the national and homeland security consequences of violence along the U.S.-Mexico border. No date or witness list for the April field hearing had been determined at the time of this writing. The hearing will take on April 20, 2009, in Phoenix, Arizona.

Senate Debate on Mortgage Relief Measure Postponed Until After the April Recess: Senate floor consideration of House-passed legislation to provide mortgage relief to homeowners filing for bankruptcy has been postponed until after the April recess as senators seek to negotiate a compromise that the Senate can pass.

Should it occur, Senate action would be taken in connection with [H.R. 1106](#), the Helping Families Save Their Homes Act, which the House of Representatives passed H.R. 1106 on March 5, 2009, by a vote of [234-191](#). The House-passed version of the measure would permit courts to reduce the principal owed for principal residences down to the current market value of the home, and to reduce interest rates or fees on the mortgage.

As passed by the House, H.R. 1106 did not contain any provisions specifically focused on immigrants. However, it is widely expected that the measure will become a target of amendments that would impose immigration-related restrictions in the Senate. ◇

Next Week's Edition ...

Look for the following articles in next week's edition of the Weekly Legislative Update:

- [Fiscal Year 2010 Budget Resolution](#). Next week's Weekly Legislative Update will provide an analysis of the immigration- and refugee-related consequences that can be discerned from this week's House and Senate floor action on their respective versions of the fiscal year 2010 budget resolution.
- [Fiscal Year 2009 War Supplemental](#). Next Week's Weekly Legislative Update will report on any refugee-related provisions contained in President Barack Obama's Fiscal Year 2009 war supplemental request should the President, as expected, submit such a request to Congress this week.
- [Preview of the Likely Immigration and Refugee Legislative Agenda for the 111th Congress](#). Next week's Weekly Legislative Update will preview the likely immigration and refugee legislative agenda that Congress will face during the 111th Congress. ◇

Appendix

No items this week.

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